

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

House Bill 491
Economic Matters

(Delegate Mitchell)

Finance

Workers' Compensation - Principal Contractor - Liability

This bill adds notification requirements to the criteria for determining who is a covered employee in the relationship between a principal contractor and a subcontractor when the subcontractor is a sole proprietor.

Fiscal Summary

State Effect: The bill's requirements could be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill provides that a principal contractor is not liable to pay workers' compensation to an individual who is a sole proprietor subcontractor if the individual does not notify the principal contractor of the individual's status as a covered employee and does not elect to be a covered employee.

An individual is presumed to be a sole proprietor who is not a covered employee if a substantial part of the individual's income is from work for which a principal contractor has engaged the individual and from which the individual has attempted to earn taxable income and:

- the individual notifies the principal contractor that the individual has not elected to become a covered employee; or
- the individual has filed the appropriate IRS Form 1040, Schedule C or F, for the previous taxable year.

Both notifications must be made on a form approved by the Workers' Compensation Commission.

Current Law: A principal contractor is not liable to pay workers' compensation to an individual who is a sole proprietor subcontractor who does not elect to be a covered employee; however, there is no provision as to how a sole proprietor would make that choice known.

An individual is presumed to be a sole proprietor who is not a covered employee if:

- a substantial part of the individual's income is from the work for which a principal contractor has engaged the individual and from which the individual has attempted to earn taxable income; and
- the individual has filed the appropriate IRS Form 1040, Schedule C or F, for the previous taxable year.

State Fiscal Effect: The Workers' Compensation Commission reports that it would anticipate a minimal fiscal impact to develop a standardized form for sole proprietors to notify principal contractors as to whether or not they elect to be covered employees of the principal contractor, and to maintain a file of notification forms. The commission does not propose an increase in expenditures to perform these tasks.

Background: The National Council on Compensation Insurance notes that the bill would allow minimal shifting of compensation costs within the workers' compensation system and have no net effect on the State's workers' compensation market.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): National Council on Compensation Insurance, Uninsured Employers' Fund, Workers' Compensation Commission, Injured Workers' Insurance Fund, Subsequent Injury Fund, Department of Legislative Services

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